

technology," according to a December 5, 1986 article in the Christian Science Monitor.

The national security letter provision of the Electronic Communications Privacy Act of 1986 has recently been challenged in federal court. During the course of the litigation, Justice Department attorneys agreed that there should be judicial review of national security letters, and argued that current law already provides for such review. Nevertheless, last September a federal district court in New York struck down the Electronic Communications Privacy Act as unconstitutional because it does not explicitly authorize judicial review. See *Doe v. Ashcroft*, 334 F. Supp. 2d 471 (S.D.N.Y. 2004). This litigation—which is currently on appeal—presents an important legal dispute concerning whether the Electronic Communications Privacy Act implicitly provides for judicial review of national security letters. It may be helpful for Congress to enact an explicit provision authorizing judicial review, to avoid any ambiguity and to provide clearer guidance to national security letter recipients and parties in litigation in the future.

Accordingly, the Electronic Communications Privacy Judicial Review and Improvement Act of 2005 responds to the *Doe v. Ashcroft* litigation by establishing an explicit judicial review provision for national security letters.

Section 1. Short title.

Section 2. Judicial review. This provision explicitly authorizes a recipient of a national security letter to seek judicial review in federal court to prevent enforcement of the letter. The provision states that a court may modify or set aside the national security letter if compliance would be unreasonable or oppressive—the same standard that governs grand jury subpoenas. See Federal Rule of Criminal Procedure 17(c)(2). Courts have made clear that, under this standard, requests must be relevant to the underlying investigation. See, e.g., *U.S. v. R. Enterprises Inc.*, 498 U.S. 292, 301 (1991) (requiring “reasonable possibility that the category of materials the Government seeks will produce information relevant to the general subject of the grand jury’s investigation”).

This provision also explicitly authorizes a recipient at any time to seek judicial review in federal court to set aside the nondisclosure requirement imposed by the original 1986 law. The 1986 Act forbids recipients from disclosing to any person that the FBI has issued the national security letter. This bill provides that a court may modify or set aside the nondisclosure requirement if there is no reason to believe that disclosure may endanger the national security of the United States, interfere with a criminal, counterterrorism, or counterintelligence investigation, interfere with diplomatic relations, or endanger the life or physical safety of any person. The provision also provides that, in reviewing a nondisclosure requirement, the certification by the Government that disclosure may endanger of the national security of the United States or interfere with diplomatic relations shall be treated as conclusive unless the court finds that the certification was made in bad faith.

Section 3. Enforcement of national security letters. This provision authorizes the Attorney General to seek enforcement of a national security letter in federal court if a recipient refuses to comply.

Section 4. Disclosure of information. This provision establishes that the judicial review proceedings established by this bill may be secured against disclosure pursuant to the

provisions of the Classified Information Procedures Act.

This provision also makes clear that the nondisclosure requirement of the 1986 law does not forbid conversations with the recipient’s attorney to obtain legal advice regarding the request, nor does it forbid conversations with persons to whom disclosure would be necessary to comply with the request. All participants in such conversations are forbidden from disclosing the existence of the national security letter, consistent with the requirements of the original 1986 law.

By Mr. COLEMAN:

S. 694. A bill to amend the Workforce Investment Act of 1998 to provide for a job training grant pilot program; to the Committee on Health, Education, Labor, and Pensions.

Mr. COLEMAN. Mr. President, I ask unanimous consent that the bill I introduce today be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 694

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. JOB TRAINING GRANT PILOT PROGRAM.

Section 171 of the Workforce Investment Act of 1998 (29 U.S.C. 2916) is amended by striking subsection (d) and inserting the following:

“(d) JOB TRAINING GRANT PILOT PROGRAM.—

“(1) IN GENERAL.—

“(A) GRANTS.—The Secretary shall provide grants to qualified job training programs as follows:

“(i) PLACEMENT GRANTS.—Grants in an amount to be determined by the Secretary shall be provided to qualified job training programs upon placement of a qualified graduate in qualifying employment.

“(ii) RETENTION GRANTS.—An additional grant in an amount to be determined by the Secretary shall be provided to qualified job training programs upon retention of a qualified graduate in qualifying employment for a period of 1 year.

“(B) DETERMINATION.—In determining the amount of the grants to be provided under subparagraph (A), the Secretary shall consider the economic benefit received by the Government from the employment of the qualified graduate, including increased tax revenue and decreased unemployment benefits or other support obligations.

“(2) QUALIFIED JOB TRAINING PROGRAM.—For purposes of this subsection, a qualified job training program is 1 that—

“(A) is operated by a nonprofit or for-profit entity, partnership, or joint venture formed under the laws of—

“(i) the United States or a territory of the United States;

“(ii) any State; or

“(iii) any county or locality;

“(B) offers education and training in—

“(i) basic skills, such as reading, writing, mathematics, information processing, and communications;

“(ii) technical skills, such as accounting, computers, printing, and machining;

“(iii) thinking skills, such as reasoning, creative thinking, decision making, and problem solving; and

“(iv) personal qualities, such as responsibility, self-esteem, self-management, honesty, and integrity;

“(C) provides income supplements when needed to eligible participants (defined for purposes of this paragraph as an individual who meets the criteria described in subparagraphs (A) through (C) of paragraph (3)) for housing, counseling, tuition, and other basic needs;

“(D) provides eligible participants with not less than 160 hours of instruction, assessment, or professional coaching; and

“(E) invests an average of \$10,000 in training per graduate of such program.

“(3) QUALIFIED GRADUATE.—For purposes of this subsection, a qualified graduate is an individual who is a graduate of a qualified job training program and who—

“(A) is 18 years of age or older;

“(B) had in either of the 2 preceding taxable years Federal adjusted gross income not exceeding the maximum income of a very low-income family (as defined in section 3(b)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(2))) for a single individual; and

“(C) has assets of not more than \$10,000, exclusive of the value of an owned homestead, indexed for inflation.

“(4) QUALIFYING EMPLOYMENT.—For purposes of this subsection, qualifying employment shall include any permanent job or employment paying annual wages of not less than \$18,000, and not less than \$10,000 more than the qualified graduate earned before receiving training from the qualified job training program.”.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 93—RELATIVE TO THE DEATH OF HOWELL T. HEFLIN, FORMER UNITED STATES SENATOR FOR THE STATE OF ALABAMA

Mr. REID (for himself, Mr. FRIST, Mr. SHELBY, and Mr. SESSIONS) submitted the following resolution; which was considered and agreed to:

S. RES. 93

Whereas Howell Heflin served as a United States Marine from 1942–1946 and was awarded the Silver Star for bravery;

Whereas Howell Heflin served as Chief Justice of the Alabama Supreme Court from 1971–1977;

Whereas Howell Heflin served the people of Alabama with distinction for 18 years in the United States Senate; and

Whereas Howell Heflin served the Senate as Chairman of the Select Committee on Ethics in the ninety-sixth and one hundredth to one hundred-second Congresses;

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of the Honorable Howell T. Heflin, former member of the United States Senate.

Resolved, That the Secretary of the Senate communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate adjourns today, it stand adjourned as a further mark of respect to the memory of the Honorable Howell T. Heflin.

SENATE RESOLUTION 94— HONORING POPE JOHN PAUL II

Mr. BROWNBAC (for himself, Mr. BUNNING, Mr. BURNS, Mr. CHAMBLISS, Mr. CLINTON, Mr. CORNYN, Mr. DEMINT, Mr. DOMENICI, Mr. ENZI, Mr. GRASSLEY, Mr. KERRY, Mr. KOHL, Mr. MARTINEZ, Mr. THUNE, Mr. DURBIN, and Mr. NELSON of Nebraska) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 94

Whereas His Holiness, Pope John Paul II, was born Karol Jozef Wojtyla in Wadowice, Poland, on May 18, 1920, the youngest of 3 children, born to Karol Wojtyla and Emilia Kaczorowska;

Whereas Pope John Paul II personally suffered and experienced deprivation from an early age, losing his mother, eldest brother, and father before turning age 21;

Whereas Pope John Paul II found comfort and strength in the example of his father's faith, of whom he observed "after my mother's death, his life became one of constant prayer. Sometimes I would wake up during the night and find my father on his knees . . . his example was in a way my first seminary";

Whereas, in 1939, Pope John Paul II was enrolled in Jagiellonian University in Cracow, which was closed by the Nazis during their occupation of Poland;

Whereas Pope John Paul II experienced the brutality of a godless totalitarian regime, which sought to eradicate the history and culture of a proud people and sent many of his professors, friends, and millions of Polish Jews to camps where they were systematically murdered;

Whereas, in 1942, Pope John Paul II was himself arrested by Nazi occupation forces, but his life was spared because of his employment at a limestone quarry, work deemed essential to the war effort;

Whereas Pope John Paul II courageously defied the Nazi occupation forces, risking his own life to protect Polish Jews from persecution, helping to organize the underground "Rhapsodic Theatre", which he intended to be "a theatre . . . where the national spirit will burn", writing two religious plays considered subversive to the Nazi regime, and enrolling in the clandestine seminary of Archbishop Sapieha of Cracow, where he studied religion, theology, and philosophy;

Whereas the Nazi occupation of Poland was ended only by the imposition of a Communist era of occupation that sought to subjugate Polish citizens, extinguish Polish nationalism, and subjected the exercise of individual religious liberty to the control of godless Stalinist rulers;

Whereas, in 1946, Pope John Paul II was ordained, later becoming a Professor of Ethics and Chaplain at the Catholic University of Lublin, the only Catholic university behind the Iron Curtain, where he, again at great personal risk, initiated activities that helped to preserve the intellectual, cultural, and historical richness of his homeland and protected the integrity and independence of the Catholic Church in Poland;

Whereas Pope John Paul II was an articulate and outspoken advocate for religious freedom and Christian humanism at Vatican Council II, asserting that the Church could not claim religious liberty for itself unless it was willing to concede it to others;

Whereas Pope John Paul II, upon returning to his homeland, frequently cited the Coun-

cil's declaration that religious freedom was "the first of human rights", a phrase embraced by Polish Catholics in their struggle against the hegemony of the Communist regime;

Whereas, on October 16, 1978, Pope John Paul II was elected the 264th Pope, making history by becoming the first-ever Slavic Pope and the first non-Italian Pope in more than 400 years;

Whereas Pope John Paul II served for over 26 years as Bishop of Rome and Supreme Pastor of the Catholic Church, and as the spiritual leader of more than 1,000,000,000 Catholic Christians around the world, including more than 66,000,000 Catholic Christians in the United States;

Whereas Pope John Paul II served the third-longest pontificate, behind only Saint Peter, who served as Pope for over 34 years, and Blessed Pius IX, who served for over 31 years;

Whereas Pope John Paul II was a unique, substantial, and historic catalyst in the demise of Soviet communism and the emancipation of hundreds of millions of people from totalitarian rule;

Whereas Pope John Paul II, in his inaugural sermon, boldly offered hope to oppressed peoples around the world while causing authoritarian rulers to brace by proclaiming "open the boundaries of states, economic and political systems, the vast fields of culture, civilization, and development. Do not be afraid";

Whereas, in June 1979, Pope John Paul II returned to his native Poland for 9 days, unleashing patriotic and religious forces that would ultimately lead to the peaceful toppling of the Communist regime in Poland and the dramatic demise of the Warsaw Pact and the Soviet Union;

Whereas Pope John Paul II, before visiting his native Poland in 1987, met with President Ronald Reagan, who recognized the fruits of His Holiness' labors by stating "be assured that the hearts of the American people are with you. Our prayers will go with you in profound hope that the terrible burden of brave people everywhere who yearn for freedom, even as all men and women yearn for the freedom that God gave us all. . . . We see the power of the spiritual force in that troubled land, uniting a people in hope, just as we see the powerful stirrings in the East of a belief that will not die despite generations of oppression. . . . For despite all the attempts to extinguish it, the people's faith burns with a passionate heat: once allowed to breathe free, that faith will burn so brightly it will light the world";

Whereas Pope John Paul II was recognized by Lady Margaret Thatcher to have "provided the main impetus for the revival of Solidarity and the pressure for reform [in his native Poland]";

Whereas Pope John Paul II was acknowledged by Mikhail Gorbachev to have played an essential role in the liberation of those who lived under European communism when he stated "everything that happened in Eastern Europe . . . would have been impossible without this Pope";

Whereas Pope John Paul II carried on an active correspondence with world leaders during the 1980s, involving the Church in efforts to promote peace by reducing tensions, and exerting his moral authority to persuade the superpowers to engage in a "dialogue" that succeeded in reducing conventional and nuclear weapons and helped to avert a nuclear war;

Whereas Pope John Paul II used public and private diplomacy and the power of moral

persuasion to encourage world leaders to respect the inalienable rights of the human person;

Whereas, on May 13, 1981, Pope John Paul II, was shot by a would-be assassin, and nevertheless provided a remarkable example of the power of grace, later visiting his attacker in prison, and stating afterwards "I spoke to him as I would speak to a brother whom I have forgiven and who enjoys my confidence";

Whereas Pope John Paul II ministered to Catholic and non-Catholic alike, providing a personal example of grace, endurance, compassion, courage, sacrifice, and foresight;

Whereas Pope John Paul II sought to heal divisions between the Catholic Church and other Christian faiths, the Jewish faith, and Islam, expressing sadness and regret for the individual acts of present and former Catholics who persecuted members of other faiths and promoting reconciliation and dialogue through the first-ever Papal visits to synagogues and mosques, as well as visits to areas of historic conflict, including Ireland and the Holy Land;

Whereas, in 1995, Pope John Paul II wrote of "the incomparable worth of the human person," noting that: "Even in the midst of difficulties and uncertainties, every person sincerely open to truth and goodness can, by the light of reason and the hidden action of grace, come to recognize . . . the sacred value of human life . . . and can affirm the right of every human being to have this primary good respected to the highest degree";

Whereas, in 1998, Pope John Paul II visited Cuba to speak directly to the Cuban people and their Communist rulers, calling for political and religious freedom, the release of political prisoners, a recognition of the right to express one's faith "in the context of public life", and the importance of fundamental human dignities, including that "each person enjoying freedom of expression, being free to undertake initiatives and make proposals within civil society, and enjoying appropriate freedom of association" is a necessity;

Whereas Pope John Paul II traveled farther than any other Pope in history, traversing approximately 3/4 of a million miles, visiting 130 countries, including African nations never before visited by a Pope, being seen by more people than anyone in human history, and evangelizing to more than 6,000,000 people in the closing mass of World Youth Day '95 in the Philippines;

Whereas Pope John Paul II changed the course of history, leading the Catholic Church through a dramatic and remarkable period, and into Christianity's third millennium;

Whereas Pope John Paul II devoted his life to the amelioration of the human cost of terror and oppression through his dedication to truth, forgiveness, and the development of a vibrant public moral culture;

Whereas Pope John Paul II articulated the importance of individual liberty being undergirded by a "moral order", embraced the poor and oppressed masses of the world, and encouraged governments and the faithful to attend to the needs of those who are less fortunate;

Whereas Pope John Paul II brought hope and inspiration to hundreds of millions of people around the world oppressed by tyranny, hunger, disease, and despair;

Whereas Pope John Paul II worked tirelessly to bring peace to regions of the world that have been driven by strife, intolerance, hatred, and violence for far too long;

Whereas Pope John Paul II changed the lives of billions of people across the globe;